

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 237 – HB 457

April 9, 2013

SUMMARY OF ORIGINAL BILL: Authorizes courts upon request of eligible petitioner, as defined for purposes of expunction, to prescribe community service in lieu of the fee for having records expunged under Tenn. Code Ann. § 40-32-101. Such community service shall not exceed 20 hours.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease State Revenue – \$7,600/TBI
\$19,700/District Attorneys Expunction Fund
\$2,200/Public Defenders Expunction Fund
\$21,900/General Fund

Increase State Expenditures – Not Significant

Decrease Local Revenue – \$1,500/Court Clerks
Increase Local Expenditures – Not Significant

SUMMARY OF AMENDMENTS (005853, 006514): Deletes the bill in its entirety.

Permits a petitioner to enter into a payment plan with the court clerk to pay the \$350 expunction fee in installments. An order of expunction shall not be granted until the full \$350 fee is paid. The \$350 expunction fee, if paid through the payment plan, is distributed differently than under Tenn. Code Ann. § 40-32-101(g)(10).

If the \$350 fee is paid via payment plan, the fee is allocated differently than if paid in one lump sum under Tenn. Code Ann. § 40-32-101(g)(10). Under the bill as amended, the court clerk shall receive \$25.00 rather than \$10.00; the Tennessee Bureau of Investigation (TBI) shall receive \$80.00 rather than \$50.00; the District Attorneys (DAs) shall receive \$220 rather than \$130.50; and the Public Defenders (PDs) shall receive \$25.00 rather than \$14.50. The General Fund does not receive any of the expunction fee if paid through a payment plan.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Increase State Revenue – \$1,600/TBI
\$4,400/District Attorneys Expunction Fund
\$500/Public Defenders Expunction Fund

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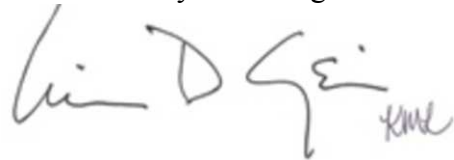
Increase Local Revenue – \$500/Court Clerks

Assumptions for the bill as amended:

- The bill would result in individuals who are “eligible petitioners” to have the records expunge that could not do so previously because they could not afford the \$350 fee.
- The additional revenues are allocated differently than the normal expunction fee.
- Under Tenn. Code Ann. § 40-32-101(g)(10), the \$350.00 fee one pays for having records expunged is distributed as follows:
 - \$10.00 to the court clerk collecting the fee;
 - \$50.00 to the TBI;
 - The remainder (\$290.00) is distributed:
 - 5% (\$14.50) to the PDs expunction fund;
 - 40% (\$116.00) to the DAs expunction fund for fiscal year 2012-2013 and 45% (\$130.50) beginning fiscal year 2013-2014;
 - 55% (\$159.50) to the state general fund for fiscal year 2012-2013 and 50% (\$145.00) beginning fiscal year 2013-2014.
- The bill as amended would distribute the \$350 fee as follows:
 - \$25.00 to the court clerk;
 - \$80.00 to the TBI;
 - \$25.00 to the PDs expunction fund; and
 - \$220.00 to the DAs expunction fund.
- It is assumed that the bill would result in 20 additional petitioners each year having their records expunged.
- The bill would result in increased state revenue of \$6,500 (\$325 x 20) and increased local revenue of \$500 (\$25 x 20).
- The TBI would receive \$1,600 (\$80 x 20); the DAs would receive \$4,400 (\$220 x 20); and the PDs would receive \$500 (\$25 x 20).

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink, appearing to read "Lucian D. Geise", with a small "KMD" monogram to the right.

Lucian D. Geise, Executive Director

/trm